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Permanent Normal Trade Relations (PNTR) Status for Russia and U.S.-Russian Economic Ties

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Summary

During his November 13-15, 2001 meetings with Russian President Vladimir Putin, President George W. Bush stated that his administration will work with the Congress to grant Russia permanent “normal trade relations” (PNTR) status. The change in Russia’s trade status will require legislation to lift the restrictions currently applied to Russia under Title IV of the Trade Act of 1974, which includes the “freedom-of-emigration” requirements of the Jackson-Vanik amendment. Two bills have been introduced in the 107th Congress, H.R. 3553 (Thomas) and S. 1861 (Lugar) to grant PNTR status to Russia. This report will be updated as events warrant.

During the November 13-15, 2001 summit meeting with Russian President Putin in Washington, D.C. and Crawford, Texas, President Bush stated that his Administration would work with the Congress to extend permanent normal trade relations (PNTR) status to Russia. This effort is part of a group of bilateral economic, foreign policy, and national security measures supported by the Bush Administration to forge a closer working relationship between the United States and Russia. Granting Russia PNTR status requires a change in law because Russia is prohibited from receiving unconditional and permanent NTR under Title IV of the Trade Act of 1974, which includes the so-called Jackson-Vanik amendment. This report examines this legislative issue in the context of U.S.-Russian economic ties.

What are NTR and Jackson-Vanik?

“Normal trade relations” (NTR), or “most-favored-nation” (MFN), trade status is used to denote nondiscriminatory treatment of a trading partner.¹ Only a few countries

¹ MFN has been used in international agreements and until recently in U.S. law to denote the fundamental trade principle of nondiscriminatory treatment. However, “MFN” was replaced in U.S. law, on July 22, 1998, by the term “normal trade relations.” (P.L. 105-206). MFN is still (continued...)

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do not have NTR status in trade with the United States. In practice, duties on the imports from a country which has been granted NTR status are set at lower, concessional rates than those from countries that do not receive such treatment. Thus, imports from a non-NTR country can be at a large price disadvantage compared with imports from NTR-status countries.

Section 401 of Title IV of the Trade Act of 1974 requires the President to deny NTR status to any country that had not been receiving such treatment at the time of the law's enactment on January 1, 1975. In effect this meant all communist countries, except Poland. (Yugoslavia was removed from the list in 1981.) Section 402 of Title IV, the so-called Jackson-Vanik amendment, requires the President to continue to deny NTR to those countries as well as prohibit their access to U.S. government credit facilities, such as the Export-Import Bank, as long as the country denies its citizens the right of freedom-of-emigration. These restrictions can be removed if the President determines that the country is in full compliance with the freedom-of-emigration conditions set out under the Jackson-Vanik amendment. For a country to maintain that status, the President must reconfirm his determination of full compliance in a semiannual report (on June 30 and December 31) to Congress. His determination can be overturned by the enactment of a joint congressional resolution of disapproval concerning the December 31st report.

The Jackson-Vanik amendment also permits the President to waive the free emigration requirements, if he determines that such a waiver would promote the objectives of the amendment, that is, encourage freedom of emigration. This waiver authority is subject to a annual renewal and to congressional disapproval via a joint resolution. Before a country can receive NTR treatment under either the presidential determination of full compliance or the presidential waiver authority, it must have concluded and enacted a bilateral agreement that requires it, among other things, to extend NTR or MFN treatment to imports from the United States. The agreement and a presidential proclamation extending NTR status cannot go into effect into a joint resolution approving the agreement is passed and enacted into public law.

Russia's NTR Status

The United States and Russia reached and ratified a bilateral trade agreement and the United States extended NTR treatment to Russia under the presidential waiver authority beginning in June 1992. Since September 1994, Russia has received NTR status under the full compliance provision. Presidential extensions of NTR status to Russia have not met with strong congressional opposition.

Russian leaders have continually pressed the United States to "graduate" Russia from Jackson-Vanik coverage entirely. They see the amendment as a Cold War relic that does not reflect Russia's new stature as a fledgling democracy and market economy. Moreover, Russian leaders argue that Russia has implemented freedom-of-emigration policies since the fall of the communist government, making the Jackson-Vanik conditions inappropriate and unnecessary.

¹ (...continued)

used in international trade agreements. The terms are used interchangeably in this report.

While Russia remains subject to the Jackson-Vanik amendment, some of the other former Soviet republics have been granted permanent and unconditional NTR-Kyrgyzstan on June 29, 2000, and Georgia on December 29, 2000. Perhaps, what has been particularly irksome to Russian leaders is that in November 2001, the United States granted permanent and unconditional NTR status to China, ostensibly still a communist country.

U.S.-Russian Economic Ties

During the Cold War, U.S.-Soviet economic ties were very limited. They were constrained by national security and foreign policy restrictions, including the Jackson-Vanik amendment restrictions. They were also limited by Soviet economic policies of central planning that prohibited foreign investment and tightly controlled foreign trade.

With the collapse of the Soviet Union, successive Russian leaders have been dismantling the central economic planning system. This has included the liberalization of foreign trade and investment. U.S.-Russian economic relations have expanded, but the flow of trade and investment remains very low, as reflected in table 1, which contains data on U.S. merchandise trade with Russia since 1992.

Table 1. U.S. Trade with Russia, 1992-2001*
(Billions of U.S. Dollars)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Exports	2.1	3.0	2.6	2.8	3.3	3.4	3.6	2.1	2.1	2.8
Imports	0.5	1.7	3.2	4.0	3.6	4.3	5.7	5.9	7.8	6.5
Balances	1.6	1.2	-0.7	-1.2	-0.2	-1.0	-2.3	-3.9	-5.6	-3.7

* Estimate based on annualized data for the first ten months of 2001.

Source: U.S. Department of Commerce. International Trade Administration.

The table indicates that U.S.-Russian trade, at least U.S. imports, has grown appreciably. U.S. imports have increased 13-fold, from \$0.5 billion to \$6.5 billion from 1992 to 2001. U.S. exports surged somewhat between 1992 to 1998, but declined in 1999, because of the rapid depreciation of the ruble after the 1998 Russian financial crisis. Despite the increase in trade, Russia accounts for only 0.5% of U.S. imports and 0.4% of U.S. exports. U.S. trade accounts for a small portion of total Russian trade, although it is more significant than Russia is to U.S. trade. In 2000, the United States accounted for 7.6% of Russian exports and 5.4% of Russian imports.²

U.S. exports to and imports from Russia are heavily concentrated in a few commodity categories. In 2001, the top five 2-digit Harmonized System (HS) categories of imports, accounted for close to 70% of total U.S. imports from Russia and consisted of precious stones, inorganic chemicals, mineral fuels, aluminum, iron and steel, and fish and other

² International Monetary Fund. *Direction of Trade Statistics: Yearbook 2001*.

seafood. About 52% of U.S. exports to Russia consisted of products in two 2-digit HS categories: meat (mostly poultry) and machinery (mostly parts for oil and gas production equipment). Art and antiques, electrical machinery, and optical equipment make up the remaining top five categories, which together accounted for 72% of U.S. exports to Russia in 2001.³

U.S. investments, especially direct investments, have increased since the disintegration of the Soviet Union, although as with merchandise trade, the levels are far below their expected potential. As of January 2001, cumulative U.S. foreign direct investment (FDI) in Russia was \$5.5 billion, according to U.S. Department of Commerce data. The United States was Russia's largest source of FDI, with investments largely concentrated in the transportation, energy, communications, and engineering sectors. The United States was followed by Cyprus with \$3.2 billion (probably re-investments from third countries or repatriated investments from Russian investors), and Germany with \$1.3 billion.⁴

Issues in U.S.-Russian Trade

The United States, under successive presidential administrations, has implemented policies to encourage trade and investment with Russia. These have included not only annual renewals of Russia's NTR status but also access to U.S. Export-Import Bank credit facilities and insurance for U.S. investors in Russia through the Overseas Private Investment Corporation (OPIC).

A number of issues still prevail in U.S.-Russian trade, although none appears to be undermining the fledgling relationship. From Russia's perspective, the most irritating issues pertain to Russia's treatment under U.S. trade law. In addition to the lingering issue of its NTR status, is Russia's classification as a "nonmarket economy (NME)" under U.S. trade remedy laws. Under U.S. antidumping laws, "fair prices" for imports from nonmarket economies are calculated differently than prices on imports from other economies. Russian exporters claim that the methodology used to make these calculations leads to higher antidumping margins and, therefore, places imports from Russia at a competitive disadvantage vis-a-vis other imports or U.S. domestic production. In response to requests from Russian steel producers, the U.S. Department of Commerce is examining the possibility of no longer treating Russia as a nonmarket economy under trade remedy statutes.⁵

U.S.-Russian trade in steel products emerged as another issue in the late 1990s and continues to simmer as the U.S. domestic steel industry and U.S. political leaders grapple with how to manage the impact of increases in steel imports. In 1997 and 1998, U.S. imports of various steel products surged. Analysts attributed the sudden growth to a rapid increase in U.S. demand for steel and the lack of domestic capacity to meet demand. They

³ *World Trade Atlas*.

⁴ *BISNIS Commercial Overview—Russia: Part 3 Foreign Investment*. [http://www.bisnis.doc.gov]. May 2001.

⁵ Commerce to Review Russia's Status as a Non-Market Economy. *Inside U.S. Trade*. October 5, 2001.

also attributed the trend to the appreciation of the dollar that cut the dollar price of steel imports. Imports from a number of major steel producing countries, including Russia, surged in 1998 and sometime thereafter.

The U.S. steel industry filed a number of petitions with the Department of Commerce and the U.S. International Trade Commission seeking relief, claiming that the imports were being dumped (sold at less than fair value) in the U.S. market. Some of the cases were filed against Russian steel. In lieu of completing the Commerce and ITC antidumping investigations, Russia agreed in 1999 to two pacts that suspended the investigations in exchange for restrictions on imports of Russian steel. The first agreement suspended imports of Russian hot-rolled steel for the remainder of 1999 and set graduated quotas on those imports through 2003. It also established a minimum price at which Russian hot-rolled steel would be sold in the United States. The second agreement imposed quotas on imports of other steel products from Russia. Russian steel exporters and political leaders were not pleased with the restrictions but determined that they faced costlier restrictions, if the antidumping investigations had been allowed to continue and subsequent high dumping tariff margins were imposed on steel imports from Russia.⁶

Russian economic policies and regulations have been a source of concerns. The United States and the U.S. business community have asserted that structural problems and inefficient government regulations and policies have been a major cause of the low levels of trade and investment with the United States. Russia maintains high tariffs on some goods that U.S. manufacturers try to export. For example, tariffs on cars plus the excise tax that is prorated for engine displacement adds close to 70% on the price imported U.S. passenger cars and sports utility vehicles. Russia also maintains a 20% tariff on aircraft. U.S. exporters have also cited problems with Russian customs regulations that are complicated and time-consuming.⁷

While they consider the investment climate to be improving, U.S. investors and potential investors complain that the climate for investment in Russia remains inhospitable. They have pointed to burdensome tax laws, jurisdictional conflicts among Russian federal, regional and local governments, inefficient and corrupt government bureaucracy, and the lack of a market-friendly commercial code as impediments to foreign investments.⁸

Russia's Accession to the WTO

President Putin has made Russia's entry into the World Trade Organization (WTO) a high priority. The issue is closely tied to PNTR since unconditional nondiscriminatory treatment, or MFN, is a fundamental principle of WTO membership. President Putin and his government see WTO membership as an important step in integrating the Russian economy with the rest of the world and promoting economic reform. It would also symbolize another break with Russia's Soviet past, as the Soviet Union had refused to join

⁶ Commerce Announces Final Pacts with Russia Reducing Steel Imports. *International Trade Reporter*. July 14, 2001. p. 1165-1166.

⁷ United States Trade Representative. *2001 National Trade Estimate Report on Foreign Trade Barriers*. p. 388.

⁸ Ibid.

the General Agreement on Tariffs and Trade (GATT), the predecessor of the WTO. China's accession to the WTO in December 2001 has probably intensified Russia's determination. The United States has continually supported Russia's accession to the WTO as a way of encouraging the development of a market economy in Russia and to obtain greater access to Russian markets.

Implications and Legislation

Granting Russia permanent and unconditional NTR status will have little direct impact on U.S.-Russian trade. Russian imports have entered the United States on a NTR or MFN basis since 1992. The initiative would be a political symbol of Russia's treatment as a "normal" country in U.S. trade, further distancing U.S.-Russian relations from the Cold War. It would also be a step in the direction of Russia's accession to the WTO. For investors and other business people, permanent NTR may mean a more stable climate for doing business. But many observers have concluded that U.S.-Russian economic ties will grow only when Russia has undertaken sufficient economic reforms to improve the climate for trade and investment.

The Bush Administration is pressing the 107th Congress to move expeditiously to pass legislation to remove the Jackson-Vanik restrictions and grant Russia PNTR. Two bills have been introduced – H.R. 3553 (Thomas) and S. 1861(Lugar). U.S. firms that do business with Russia support the legislation and consider it a priority.⁹ Representatives of the American Jewish community have indicated support for the concept of removing Russia from the Jackson-Vanik restrictions but want assurances that U.S. policy will continue to support protection of human rights in Russia. Others have questioned the timing of removing the restrictions now. For example, Sen. Max Baucus (MT), chairman of the Senate Finance Committee, indicated to the Bush Administration that he does not support taking action at this time but would wait and act in tandem with Russia's accession to the WTO as the Congress did in the case of PNTR for China. By waiting, Sen Baucus argues, the Congress maintains influence in defining the conditions for Russia's entry into the WTO.¹⁰

⁹ Russian-American Business Dialogue. *Interim Report*. December 2001. p. 1,2. [<http://www.usrbc.org>]

¹⁰ Sen Baucus Opposes Early Action on PNTR for Russia, Citing Concern Over WTO Talks. *Daily Report for Executives*. January 22, 2002.